

**PROPERTY ASSESSMENT APPEAL BOARD**  
**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND**

PAAB Docket No. 2019-043-00268R

Parcel No. 620002518500000

**David Scott Sherer,**

Appellant,

vs.

**Harrison County Board of Review,**

Appellee.

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**Introduction**

The appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on February 10, 2020. David Sherer was self-represented. Attorney Brett Ryan represented the Harrison County Board of Review.

David and Amy Sherer own a residential property located at 309 Normal Street, Woodbine, Iowa. Its January 1, 2019, assessment was set at \$231,187, allocated as \$20,412 in land value and \$210,775 in dwelling value. (Ex. A).

Sherer petitioned the Board of Review contending the assessment was not equitable as compared with assessments of other like property and the property was assessed for more than the value authorized by law. Iowa Code § 441.37(1)(a)(1 & 2) (2019). The Board of Review denied the petition.

Sherer then appealed to PAAB re-asserting the same claims.

## **General Principles of Assessment Law**

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. PAAB is an agency and the provisions of the Administrative Procedure Act apply. § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB may consider any grounds under Iowa Code section 441.37(1)(a) properly raised by the appellant following the provisions of section 441.37A(1)(b) and Iowa Admin. Code R. 701-126.2(2-4). New or additional evidence may be introduced. *Id.* PAAB considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct, but the taxpayer has the burden of proof. §§ 441.21(3); 441.37A(3)(a). The burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Compiano v. Bd. of Review of Polk Cnty.*, 771 N.W.2d 392, 396 (Iowa 2009) (citation omitted).

## **Findings of Fact**

The subject property is a two-story home built in 1907 with additions in 1973 and 2003; it also had extensive renovations from approximately 2003 to 2016. The home has 3472 square feet of gross living area, 650 square feet of living-quarter-quality basement finish, a deck, an open porch, and a three-car attached garage. The improvements are listed in above-normal condition with a 3+05 Grade (good quality). The site is 0.496 acres. (Ex. A).

Sherer purchased the subject property in 1999 for \$125,000. He testified he has spent roughly \$200,000 on additions, renovations, and updates to the property since that time. The most recent update includes a geo-thermal heating and cooling system. Sherer believes his rate of increase, which is over 27% from his prior assessment, is excessive. The Board of Review noted the subject's assessed value had not changed since 2015.

In support of his claims, Sherer submitted two appraisals completed for mortgage financing purposes. (Exs. 1 & 2). The first appraisal was completed by Dennis Ruffcom, Missouri Valley, Iowa, with an effective date of July 2014. (Ex. 1). Ruffcom described the subject property as being updated with good quality materials and finish. (Ex. 1, p. 1). Ruffcom relied on 2013 and 2014 sales in his sales comparison approach arriving at a value of \$200,000. He also completed the cost approach, arriving at a value of \$242,172. His final conclusion of value relied entirely on the sales comparison approach.

The second appraisal was completed by Fred Wohlenhaus, Wohlenhaus Appraisal Service, Boys Town, Nebraska. (Ex. 2). The Wohlenhaus appraisal has an effective date of April 2016. Wohlenhaus described the subject property as being in above-average condition and average quality. (Ex. 2, p. 1). Wohlenhaus relied on three 2015 sales and an active listing to arrive at a conclusion of value of \$200,000. He also completed a cost approach, determining a value of \$202,604. Sherer testified that prior to Wohlenhaus appraising the property he completed improvements, such as rebuilding the back porch, added two bathrooms, and reconfigured the second level bedrooms and closet space.

Sherer also submitted a list of sales from Woodbine. (Ex. 3). The majority of the sales occurred between 2007 and 2016. However, four sales occurred from 2017 to 2019: 31 10th Street sold in 2017 for \$155,000; 21 2nd Street sold in 2018 for \$177,500<sup>1</sup>; 409 Park Street sold in 2018 for \$160,000; and 606 Walker Street, which was listed for \$148,500, sold in June 2019 for \$138,000. (Ex. 5).

Sherer testified he was inside 606 Walker Street about six months ago but did not view the upstairs portion of the home. It is a 3054 square foot two-story home built in 1900 and listed in normal condition. (Ex. 3). Because it is listed in normal condition and there are properties with higher condition ratings are available for analysis, we find it is not one of the most probative comparables in the record.

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<sup>1</sup> The Board of Review also offered this sale as a comparable property.

Sherer also testified 509 Normal Street, Woodbine, recently sold for \$145,000. (Ex. 4). We note this property was built in 1900 and is a larger home like the subject with approximately 3049 square feet of gross living area, but is listed in below-normal condition and does not have any garages. (Exs. 3-4 & H). Harrison County Assessor Brenda Loftus testified that this property had actually belonged to her great-great grandmother. She explained it is original in condition throughout including the original ice-chest refrigerator and gas lamp fixtures upstairs. In comparison, the subject has been completely updated to modern standards. Due to the alleged condition of the property, we find it also is not one of the most probative comparables in the record.

Generally, Sherer indicated it was difficult to find recent sales in Woodbine of properties similar to his. He stated he simply could not find any sales near \$200,000 to justify the assessment of his home.

Sherer did not adjust these sales for differences between them and the subject property, but we find three of them may be relevant to ascertaining the subject property's 2019 market value.

The Board of Review submitted eleven 2018 sales, which were adjusted for differences between them and the subject property. (Ex. H). Reviewing these sales, we reject four of them outright: 807 Iowa Avenue, Dunlap; 308 S Eighth Street, Dunlap; 304 Main Place, Persia; and 320 N 8th Street, Missouri Valley. These properties are listed in below-normal condition, sold for less than \$80,000, and required approximately \$130,000 to over \$193,000 in net adjustments to make them "comparable" to the subject property. For these reasons, we do not find them to be reasonably similar to the subject property and give them no further consideration. Additionally, because Sherer has significantly updated the subject property and it is listed in above-normal condition, we believe it is reasonable to exclude the following properties that are listed in normal condition: 205 N Oak Avenue, Logan; and 703 Park Street, Woodbine. We also note that 205 N Oak was built in 1973 compared to the subject's year built of 1907, and it is

the smallest 2018 sale in the record. At just over 1300 square feet of gross living area it is roughly one-third the size of the subject property.

The following table is a summary of the remaining Board of Reviews adjusted sales (1-5) and Sherer's unadjusted sales (6-7).<sup>2</sup>

Comparable Address	Gross Living Area (SF)	Garage	Site Size (SF)	Grade	Condition	Sale Price	Adjusted Sale Price	Assessed Value	AV/SP Ratio
Subject - Woodbine	3472	Att/Det	21,600	3+05	Above-Normal				
1 - 311 N 2nd Ave, Logan	2576	None	7,280	3-05	Above-Normal	\$135,000	\$212,834	\$153,517	1.14
2 - 122 W 5th St, Logan	2357	Det	14,640	4+10	Above-Normal	\$145,000	\$234,900	\$141,451	0.98
3 - 223 N 5th St, Logan	2636	None	5,160	4+00	Above-Normal	\$99,900	\$207,224	\$124,027	1.24
4 - 107 S 8th St, Missouri Valley	1981	Det	9,000	4+10	Above-Normal	\$113,000	\$233,703	\$110,647	0.98
5 - 21 2nd St, Woodbine	1936	Att/Det	10,800	4-05	Excellent	\$177,500	\$265,370	\$143,481	0.81
6 - 409 Park St, Woodbine	1781	Att	21,780	4-10	Very Good	\$160,000		\$141,183	0.88
7 - 31 10th St, Woodbine	1724	Det	16,200	4+05	Excellent	\$155,000		\$152,655	0.98

All of the sales are two-story or one-and-a-half story homes built between 1900 and 1919. Only Sale 5 has some basement finish, the remaining have unfinished basements.

With the exception of Sale 6, all of the properties have smaller sites. Of note, Sales 1, 3, 4, and 5 are all on sites that are roughly half the size of the subject site, or less. Sale 3 is actually one-quarter the size of the subject property.

The Board of Review adjusted its sales for differences between them and the subject property. (Ex. H). The above sales have an adjusted range of value of roughly \$207,000 to \$265,000, bracketing the subject's assessment.

Sherer was critical of the Board of Review's comparable sale selection because the majority are not located in Woodbine. In his opinion, the other towns have greater market appeal. We note the Woodbine sales are among the highest in the record which may negate Sherer's assertion Woodbine has less market appeal than other nearby communities. We also note the Woodbine sales have the highest condition ratings and attached or detached garages compared to the other sales; these differences may also

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<sup>2</sup> As previously noted, Sherer also submitted Sale 5 as a comparable property. He did not adjust this sale, but the Board of Review did in its analysis.

have contributed to their higher sale prices. Sherer asserts because the Woodbine sales all sold for less than \$200,000 his property's value should not be in excess of the prior appraised values of his property. However, these sales are all significantly smaller than the subject and have lower quality construction grades. Had appropriate adjustments been made for these factors, the resulting indicated values would be in excess of the subject's assessment. While Sale 5 was considered by the Board of Review, we question why it did not analyze Sales 6 and 7. Loftus testified that she did not believe these properties were similar in gross living area and condition. We disagree; with appropriate adjustments, Sales 6 and 7 are more comparable than many of the properties the Board of Review analyzed.

Loftus testified that in her opinion residential values in Harrison County have been increasing. She explained that prior to the 2019 revaluation of properties the equalization analysis indicated a ratio of roughly 84% indicating properties were assessed for less than their actual value. After the re-appraisal the equalization analysis increased to 98%, suggesting properties are assessed at or near their market value.

The Board of Review also submitted an analysis it believes demonstrates the subject is equitably assessed. (Exs. F & G). Loftus explained this analysis was to demonstrate that each property's assessment was generated using the same methodology as the subject property's assessment.

We note the most similar sales in the record and included in the above table indicate a sales-price-to-assessment ratio between 0.81 and 1.14. A ratio less than 1.00 indicates a property is assessed for less than its actual value; a ratio higher than 1.00 indicates a property is assessed for more than its actual value. The average ratio of these sales is 1.00, and the median is 0.98.

## Analysis & Conclusions of Law

Sherer contends the subject property is inequitably assessed and over assessed as provided under Iowa Code section 441.37(1)(a)(1 & 2). Sherer bears the burden of proof. § 441.21(3).

To prove inequity, a taxpayer may show an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Here, we find Sherer failed to demonstrate the Assessor applied an assessing method in a non-uniform manner.

Alternatively, a taxpayer may show the property is assessed higher proportionately than other like properties using criteria set forth in *Maxwell v. Shivers*, 133 N.W.2d 709, 711 (Iowa 1965). The *Maxwell* test provides inequity exists when, after considering the actual (2018) and assessed (2019) values of similar properties, the subject property is assessed at a higher proportion of its actual value. While there are numerous sales in the record we focus on the most similar 2018 sales. The median and average sales-price-to-assessed-value ratio indicate that properties are assessed at or near market value even though several sales are assessed significantly below and above their market values.

Because the *Maxwell* test also requires a showing of the subject property's actual market value and his over assessment claim requires the same showing, and we therefore, turn to that claim.

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Soifer v. Floyd Cnty. Bd. of Review*, 759 N.W.2d 775, 780 (Iowa 2009) (citation omitted). Sales prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. § 441.21(1)(b). Sale prices of property in abnormal

transactions not reflecting market value shall not be taken into account or shall be adjusted to account for market distortion.

Under Iowa law, there is no presumption that the assessed value is correct. § 441.37A(3)(a). The burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Compiano v. Bd. of Review of Polk Cnty.*, 771 N.W.2d 392, 396 (Iowa 2009) (citation omitted). To shift the burden, the taxpayer must “offer[] competent evidence that the market value of the property is different than the market value determined by the assessor.” Iowa Code § 441.21(3). To be competent evidence, it must “comply with the statutory scheme for property valuation for tax assessment purposes.” *Soifer*, 759 N.W.2d at 782.

Sherer asserts the January 1, 2019, assessment should be \$200,000 based on appraisals of the property from 2015 and 2016. However, the only more recent evidence he provided of the property’s value as of the assessment date were several 2017 to 2019 unadjusted sales. Comparable sales adjusted for differences, an appraisal, or a Comparable Market Analysis, reflective of the current assessment date is typical evidence to support a claim of over assessment. Even though the appraisals follow the statutory scheme, given their effective dates are more than three years prior to the current assessment year, and there are numerous 2018 sales in the record of properties in Woodbine and surrounding communities, we conclude the appraisals are not a reliable indicator of value for the subject property as of the assessment date. Thus, Sherer has not shifted the burden to the Board of Review.

The Board of Review submitted multiple 2018 sales and adjusted these to arrive in a range of value for the subject property. If Sherer’s sales comparables were adjusted in a similar manner, they would also have supported the current assessment. Based upon the foregoing, we conclude the most persuasive evidence in the record of the subject property’s current value are the 2018 adjusted sales as well as Sherer’s sales if they were adjusted. The adjusted sale prices bracket the subject property’s assessment.



Viewing the record as a whole, we find Sherer has failed to support his claims.

### **Order**

PAAB HEREBY AFFIRMS the Harrison County Board of Review's action.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A.

Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action.

Any judicial action challenging this Order shall be filed in the district court where the property is located within 30 days of the date of this Order<sup>3</sup> and comply with the requirements of Iowa Code section 441.37B and Chapter 17A (2019).



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Karen Oberman, Board Member



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Dennis Loll, Board Member



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Elizabeth Goodman, Board Member

Copies to:

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<sup>3</sup> Due to the State Public Health Disaster Emergency caused by the coronavirus (COVID-19), the deadline for filing a judicial review action may be tolled pursuant to orders from the Iowa Supreme Court. Please visit the Iowa Judicial Branch website at <https://www.iowacourts.gov/iowa-courts/supreme-court/orders/> for the most recent Iowa Supreme Court orders.

David Sherer by eFile

Harrison County Board of Review by eFile